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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL L. SMITH,

Petitioner,

vs.

RENEE BAKER, et al.,

Respondents.

Case No. 3:13-cv-00246-RCJ-WGC

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
ANSWER TO AMENDED PETITION FOR
WRIT OF HABEAS CORPUS
(ECF No. 44)**

(FIFTH REQUEST)

Respondents move this Court for a three week extension of time, from the current due date of Wednesday November 4, 2020, up to and including Wednesday, November 25, 2020 in which to file their answer to Michael Smith's Second Amended Petition for Writ of Habeas Corpus. ECF No. 44. This motion is made pursuant to Fed. R. Civ. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon the attached affidavit of counsel.

This is the fifth enlargement of time sought by Respondents and is brought in good faith and not for the purpose of delay.

DATED November 4, 2020.

AARON D. FORD
Attorney General

By: /s/ Allison Herr
ALLISON HERR (Bar No. 5383)
Senior Deputy Attorney General

DECLARATION OF ALLISON HERR

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Allison Herr, being first duly sworn under oath, depose and state as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Senior Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in the case of *Smith v. Baker*, 3:13-cv-00246-RCJ-WGC, and as such, have personal knowledge of the matters contained herein.

2. An answer to the Second Amended Petition for Writ of Habeas Corpus (ECF No. 44) is currently due on Wednesday, November 4, 2020. I have been unable to timely complete the answer in this matter and need additional time to respond. I am seeking a three-week extension up to and including Wednesday, November 25, 2020.

3. My first extension was necessitated due to the fact I was on medical leave at the time this Court issued the initial briefing schedule. A second extension was necessitated by COVID related issues included a number of emergency matters and restricted access to material, and a third and fourth extension were caused by a combination of personal family issues, preparation for an evidentiary hearing, a service error in a Ninth Circuit matter, and a number of computer network issues.

4. Unfortunately, a fifth extension is now required. While I have been diligently working on this matter, I underestimated the amount of time that would be necessary to answer all of the claims. On its face the petition appears to include five claims, but when all of the subparts are included there are actually twenty-two claims. Unfortunately, I misread the petition and missed eight of the claims resulting in this missed deadline. Further exacerbating matters I have an answer brief due to the Nevada Supreme Court this week, and I will be out of state for a second surgery and medical treatment from November 9 through November 17, thus rather than being able to ask for a few days extension I am seeking 3 weeks to allow me to remedy these missed claims upon my return.

5. I have discussed this matter with opposing counsel, and she does not oppose my request.

6. This is the fifth request for an extension to file the answer.

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7. This motion is made in good faith and not for the purpose of delay.

I declare under penalty of perjury that the foregoing is true and correct

Executed on this 4th day of November 2020.

/s/ Allison Herr
ALLISON HERR (Bar No. 5383)

IT IS SO ORDERED.

ROBERT C. JONES
United States District Judge
Dated: November 23, 2020.